

**REMARKS**

Claims 1-4 are pending. The office action rejects claims 1-4.

No claim amendments are presented in this response.

**Rejection of Claims 1, 2 and 4 under 35 U.S.C. 103(a)**

The Office action rejects claims 1, 2, and 4 under 35 U.S.C. 103(a) over Allan et al. (U.S. 5,870,475, hereafter referred to as 'Allan') in view of Menezes et al. ("Handbook of Applied Cryptography, CRC Press Series on Discrete Mathematics and its Applications, Boca Raton, FL CRC Press, US. 1997, pgs. 497-553, hereafter referred to as 'Menezes'). Reconsideration is respectfully requested in view of the following comments.

Applicants' claim 1 includes in part the features of:

*said first symmetric key encrypted with a second symmetric network key known only by at least one device of a second type connected to said network*

The Office action on page 3 points to Allan, Abstract and col. 3, lines 37-62 as suggesting the above mentioned claimed features. Applicants respectfully disagree because a review of Allan finds that at most Allan teaches that a first symmetric key is encrypted with an asymmetric network key.

Col. 3 of Allan describes that working keys of this symmetric key encryption scheme are provided in the head end and the end station. However, to provide the keys in the head end and end stations, the head end has its own public and private keys of a PPK encryption scheme and the end station includes both public and private keys of the PPK encryption scheme.

Col. 4 of Allan describes the process for secure communications. As pointed out in the Office action the head end randomly generates a working key and encrypts this working key in accordance with the supplied public key of the end station. Thus, the working key is encrypted with an asymmetric network key and at the end station the message is decrypted with the private key (col. 4, lines 60-67). This is asymmetric key cryptography because the key used to encrypt a message differs from the key used to

decrypt it. This is clearly not the same thing as applicants' claimed invention; asymmetric and symmetric encryption schemes being quite different.

Thus, the proposed combination of references fails to teach or even suggest applicants' claimed features and Allan teaches away from the features of applicant's claim 1.

Furthermore, it is alleged in the Office action on page 4 that it would be obvious to make such a combination of references because it would increase security for transmitted data through the use of the key-encrypting key. Applicant respectfully disagree that there is any suggestion of the alleged reasons and submits that these reasons are mere conclusory statements. KSR makes clear that rejections on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. KSR requires that an Examiner provide "some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (KSR Opinion at p. 14). An Examiner must "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does," (KSR Opinion at p. 15). And, the Examiner must make "explicit" this rationale of "the apparent reason to combine the known elements in the fashion claimed," including a detailed explanation of "the effects of demands known to the design community or present in the marketplace" and "the background knowledge possessed by a person having ordinary skill in the art." (KSR Opinion at p. 14). Anything less than such an explicit analysis may not be sufficient to support a prima facie case of obviousness.

For at least the foregoing reasons it is respectfully requested the rejection of claim 1 be withdrawn. Claims 2 and 4 depend from claim 1 and include all the features of claim 1 in addition to the distinguishing features recited in each dependent claim. Thus, the rejection of claims 2 and 4 should likewise be withdrawn.

#### **Rejection of Claim 3 under 35 U.S.C. 103(a)**

Claim 3 is rejected as being unpatentable over Allan, Menezes, and in further view of Fischer (U.S. Patent 5,475,826). Applicants disagree with this ground of rejection.

Claim 3 depends from claims 1 and 2 and inherits all the above mentioned distinguishing features in addition to the features recited in claim 3. Fischer was not cited for teaching the above mentioned features, nor is there any suggestion in Fischer of these features found in claims 1 and 2. Therefore, it is respectfully submitted that claim 3 is patentable and the rejection should be withdrawn.

#### CONCLUSION

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,  
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